SKAGWAY TRADITIONAL COUNCIL

TRIBAL ADMINISTRATIVE OFFICES

TRIBAL CONSTITUTION & BY LAWS

SKAGWAY VILLAGE

REVISED DECEMBER, 2003

PREAMBLE

We are the Native Americans who are one people with a common bond of association as the Indigenous residents and descendants of the Skagway Village, a federally recognized Tribe, traditionally called Shgagwéi. The Tribe is organized under this Constitution in order to promote the common good and well-being of the Tribe; to preserve our Tlingit culture and values; to protect our sovereign and inherent rights; to promote our social, economic, and political progress as Indigenous people; and to protect the individual and community rights of our members. This Constitution shall supersede any previously adopted Constitution of the Skagway Village and is organized according to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, as amended).

It is not the intention of this Constitution to undermine or eliminate our unwritten law that we have abided by as traditional Indigenous people. Tribal law has always been in place in Tlingit country and this Constitution is not adopted to displace its application.

ARTICLE I: NAME

This is the Constitution of the people of the Skagway Village and of the Skagway Traditional Council (STC), its authorized Tribal Government.

ARTICLE II: TERRITORY AND JURISDICTION

Section One: **Territory** – The Tribe's territory includes all lands and waters and interest in lands and waters within the Tribe's traditional use area, including such Indian country as may now or hereafter exist within that territory. Such lands and waters shall include, but are not limited to, all lands and waters customarily and traditionally used or owned by the Skagway Native people since time immemorial, and all lands within the modern day community of Skagway, Alaska. As soon as practical after the adoption of this Constitution, the Tribe shall prepare an official map of its territory.

Section Two: **Jurisdiction** – The Tribe shall have jurisdiction to the fullest extent possible over all lands, waters, and people within its territory and members wherever located to the extent such jurisdiction does not violate federal or Tlingit law. This jurisdiction extends to all matters that affect the Tribe's governance, political integrity, economic security, or health and welfare; and also to persons who interact with the Tribe or its members. Nothing in this Constitution shall be construed to limit the ability of the Tribe to exercise its jurisdiction, which is based upon its inherent sovereignty as a Tribe.

Article III: Membership

Section One: **Base Membership** – Any person of North American Native decent and whose name appears on the base roll adopted by the Traditional Council after the passage of this Constitution shall be base members of the Tribe, provided that the Tribe may correct or amend the base membership roll following the adoption of this Constitution.

Section Two: **Lineal Descendents** – Lineal descendents of the base roll members shall automatically be eligible for membership in the Tribe. No blood quantum threshold is required for lineal descendents.

Section Three: **Children of Members** – Children of base roll members shall automatically be eligible for membership in the Tribe. Children include Alaska Native, American Indian, or Canadian First Nations children who are biological or adopted under State or Tribal Law. Parents or guardians may not relinquish Tribal eligibility or remove their minor children from membership with the Tribe. Minor children shall either be formally enrolled with the Tribe or be members of the Tribe by virtue of their eligibility until they reach the age of eighteen, regardless of whether their parents enroll them with another Tribe. No blood quantum threshold is required for children of members.

Section Four: **New Residents** – Any person of at least 1/8 Alaska Native, American Indian, or Canadian First Nations descent who has lived with the Tribe's territory for 90 days and intends to reside within the Tribe's territory may be admitted to membership at the discretion of the Tribe and as otherwise permitted under this Constitution. However, their membership is relinquished if they move out of the territory, and their children are not automatically eligible for membership unless the other parent is a lineal descendent of the base roll. New Residents are also not entitled to receive dividends from revenues derived from Tribal Lands, but are eligible for Tribal programs.

Section Five: **Adopted Members** – Any person of at least 1/8 Alaska Native, American Indian, or Canadian First Nations who is not eligible for membership but has family or other significant ties to the Tribe may be admitted to membership at the discretion of the Tribe and as otherwise permitted under this Constitution. Children of Adopted members are not automatically eligible for membership unless the other parent is a lineal descendent of the base roll. New Residents are also not entitled to receive dividends from revenues derived from Tribal Lands, but may be eligible for Tribal programs at the discretion of the Tribe.

Section Six: **Honorary Members** – The title "Honorary Tribal Member" may be granted by the Tribe to any person. Honorary members are restricted from voting, sharing Tribal assets, passing the title on to their descendents, and holding Tribal office. Honorary members are not eligible for Tribal Programs.

Section Seven: **Dual Membership** – A member of the Tribe may be a member of another tribe, but is not entitled to dual benefits. If the Tribal member is eligible for Tribal benefits with the other tribe, and resides in that tribe's territory, then they are not eligible for programs with the STC. However, if the member is not eligible for benefits with the other tribe, then they may be eligible for Tribal programs at the discretion of the STC.

Section Eight: **Relinquishment** – Membership may be voluntarily relinquished by written notice from the member to the Tribe. Except as permitted by ordinance, no person's membership may be relinquished unless that person is at least 18 years of age.

Section Nine: **Loss of Membership** – The Tribe may revoke membership with due process under Tribal Law.

Section Ten: **Regulation of Membership** – The Traditional Council shall have the power to enact ordinances and resolutions – not inconsistent with this Constitution – prescribing rules and regulations governing membership. Unless otherwise stated through ordinance or resolution, the Council regulates membership application, appeals, and member status.

Adopted members ~~does~~ are not entitled ~~them~~ to ~~the~~ ~~same tribal services and~~ voting rights as base roll and base roll descendents.

Article IV: Governing Body

Section One: **Name** – The governing body of the Tribe shall be the Skagway Traditional Council.

Section Two: **Composition** – The Council shall consist of a Tribal Chair and 6 other members who shall be elected by a majority vote of qualified Tribal members of the Tribe at a bi-annual election or meeting.

Section Three: **Officers** – The officers of the Council shall include a Tribal Chair, Vice-Chair, Tribal Secretary, and Tribal Treasurer. Except for the Chair, the Council shall be elected bi-annually by the members of the Council by a plurality vote, and officers (other than the Chair) shall be installed by the Council at the inaugural meeting. The Chair shall be elected by the Tribal Members separate from the Council. The Council shall appoint a Tribal President – who is not a member of the Council – to administer the Tribe's programs and offices. The Council may appoint such other officers or committees as may be necessary from within or outside of the Council.

Section Four: **Term of Office** – The term of the Chair and Council members shall be 2 years. Council members shall take office immediately upon certification of the election and administration of the following oath, and shall remain in office until their successors are duly elected and qualified.

Oath of Office: "I _____ do solemnly swear that I will support the constitution and laws of the Native Village of Skagway. I will perform the duties of my office to the best of my abilities in a manner that is consistent with traditional Tlingit culture and is fair and equitable to all persons under the jurisdiction of the Native Village of Skagway.

Section Five: **Conflict of Interest** – A member of the Council will not vote in any matter relating to an immediate sole benefit to themselves or their immediate family. "Immediate family" refers to – whether by blood or adoption – a father, mother, brother, sister, wife, husband, son, or daughter. Any Council member who has a financial interest or other personal conflict of interest in a matter before the Council shall declare the nature of that conflict and request a ruling from the Chair. If any Council member or voting Tribal member present objects to the Chair's decision, the matter shall be referred to the Council and decided by majority vote. The Council member with the potential conflict shall not vote on the question or preside over the meeting, but may be counted for quorum purposes and may participate in the discussion with the approval of the Chair or the Council.

Section Six: **Compensation** – Council members may receive a monthly meeting stipend from the Tribe for services, and also receive federal per diem rates for traveling on Tribal business.

Article V: Elections

Section One: **Eligible Voters** – Any duly enrolled member of the Tribe who is at least 18 years of age shall be eligible to vote in Tribal elections, unless otherwise regulated through ordinance.

Section Two: **Qualification of Candidates** – Only members eligible to vote at the time of their nomination shall be eligible for election to the Council and serve in that capacity. Any person having a felony record involving murder, manslaughter, sexual assault, child abuse, or other felony crimes involving dishonesty or repeated violence is not eligible. The Council may provide additional qualifications by ordinance.

Section Three: **Regular or Special Elections** – The Tribe's election shall occur bi-annually. The date, time, and place of the meeting or election shall be determined by the Council and posted at least 15 days prior to the election. Special elections shall be called by the Chair, by a majority of the Council, or upon receipt of petition signed by at least 30% of eligible Tribal voters.

Section Four: **Election Ordinance** – As soon as practical after the adoption of this Constitution, the Council shall enact an Election Ordinance. The ordinance shall – in a manner consistent

with this Constitution – include provisions for conducting all Tribal elections by secret and absentee or mail-in balloting, nomination of candidates, maintenance of a current list of eligible voters, the settling of election disputes and other matters related to the conduct of elections. Further, the ordinance shall spell out the procedure and format to be used when it is necessary to submit petitions for any purpose to the Council and set forth a procedure for determining the validity of such petitions.

Section Five: **Election Committee** – There shall be an Election Committee consisting of 3 persons at least 18 years of age appointed by the Council for each Tribal election, whose duties shall be to supervise, administer, and conduct the election. The Election Committee shall serve from the time of their appointment, until certification of the election for which the committee was appointed. The Election committee shall certify the election of Tribal officials immediately after the election, and no member of the Election Committee shall at the same time be a member of the Council or a candidate for a position on the Council. Members of the Election Committee need not be members of the Tribe, but cannot be employees of the Tribe.

Section Six: **Minimum Voting Requirements** – Except where otherwise provided by this Constitution, any action requiring a vote of eligible voters requires the attendance at a meeting or vote in an election of at least 40% of eligible voters either in person, by absentee, or by mail-in ballot. Except in the case of fraud, failure to contest the results or procedure of any election within 30 days constitutes a waiver of any defects in the election.

Article VI: Duties of Officers

Section One: **Tribal Chair** – The Chair shall preside at all meetings of the Tribe and the Council and shall execute on behalf of the Tribe all contracts, leases, or other documents approved by the Council. The Chair shall vote in matters before the Council, but shall not have supervision of any Tribal employees, but will preside over an annual employee evaluation and compensation meeting between the Council and the Tribal President. When the Council is not in session, the Chair shall be the official representative of the Tribe.

Section Two: **Tribal Vice**- Chair – The Vice-Chair shall assist the Chair when called upon to do so. In the absence or recess of the Chair, the Vice-Chair shall preside and when doing so shall have all the rights, privileges, and responsibilities of the Chair.

Section Three: **Tribal Secretary** – The Secretary shall attest to the Council minutes and the enactment of all resolutions and ordinances, and execute other documents as required by the operations of the Tribe.

Section Four: **Tribal Treasurer** – The Treasurer shall, with the assistance of the Tribal President, prepare the annual budget, prepare regular financial statements, supervise the annual audit, and perform other duties appropriate to the office of the Treasurer.

Section Five: **Tribal President** – The President is the Chief Executive Officer of the Tribe and is responsible for supervising all Tribal employees and agents for implementation and enforcement of ordinances, resolutions, and other recorded Council directions or policies. The President may implement and enforce the Council's ordinances, resolutions, directions, and policies according to any reasonable interpretation of them and shall present the annual budget to the Council and report at each regular Council meeting on the financial condition of the Tribe.

Section Six: **Finance, Reports, and Records** – The President shall oversee the accurate accounting for all Tribal funds, grants, and other sources of income. Reports shall be made regularly to the Council, and an annual report prepared for the Tribal membership. All records and papers of the Skagway Traditional Council shall be turned over to the Tribe at the expiration of any Council member's term in office, and on the last day of employment for any Tribal employee.

ARTICLE VII: COUNCIL MEETINGS

Section One: **Meetings** – Regular meetings of the Council shall be held at least quarterly; with the time, place, and date designated by the Council and posted. Special meetings of the Council may be called by the Chair, or upon receipt of a request signed by at least 4 members of the Council or 30% of eligible Tribal voters, and when so called the Council shall have power to transact business as in regular meetings provided that a quorum is present. Meetings may be held by simultaneous electronic communication. Action may also be taken if it is unanimously approved by all members of the Council in an identical written form describing the action.

Section Two: **Quorum and Voting** – A quorum of the Council shall consist of 4 members of the Council. Except for filling vacancies or as otherwise provided in this Constitution, no business shall be transacted unless a quorum is present and the matter is approved by affirmative vote of 4 Council members. The Chair is entitled to vote on all matters before the Council, unless prohibited by law or a conflict of interest.

Section Three: **Public Meetings** – All meetings of the Council shall be open to the Tribe's membership; provided however, that the Council may recess at its discretion to discuss any matter in a closed or executive session if the general subject matter to be discussed is expressed in the motion calling for such session. No final or official action may be taken, and recordings, notes, and written records are prohibited during the closed or executive session.

Section Four: **Ordinances** – All final decisions of the Council on matters of general and permanent interest to members of the Tribe shall be embodied in ordinances. Ordinances must be read upon introduction and adoption. Except in the case of emergency ordinances, at least 5 days public notice shall be required between the first and second reading. Emergency ordinances may be adopted upon introduction in the case of a bona fide emergency, and shall expire after 60 days unless enacted permanently. The ordinances shall be collected and made available to Tribal members and others affected upon request. Ordinances may be classified as code or non-code ordinances.

Section Five: **Resolutions** – All final decisions of the Council on matters of specific and temporary interest shall be embodied in resolutions. Resolutions may be adopted upon introduction and first reading. Resolutions shall be collected and made available to Tribal members and others affected upon request.

Section Six: **Parliamentary Procedure** – All meetings shall be conducted with an intermediate level of Robert's Rules of Order. During general meetings, parliamentary procedure is relaxed until tribal business is presented that requires action, a divisive discussion develops, or any Council or Tribal member requests activity of the rules. Any meetings between the Tribe and other organizations shall occur with parliamentary procedure, unless otherwise agreed upon by all parties.

ARTICLE VIII: REMOVAL, RECALL, FORFEITURE, AND VACANCIES

Section One: **Removal** – Any Council member found guilty of behavior involving gross misconduct in office or neglect of duty shall be removed from office if at least 5 members of the Council vote in favor of such removal. Voting must be by secret ballot and the Chair, unless accused, is entitled to vote. The accused shall have no right to cast a ballot. Before any vote for removal can be taken, the person subject to removal shall be given a written statement of the charges against him or her at least 10 days before the meeting of the Council at which the vote would take place, and the person shall be given an opportunity to answer any and all charges at the designated Council meeting. If the person subject to removal fails to appear after proper notice, the Council shall proceed with the examination and vote as scheduled. The decision of the Council shall be final, and no member of the Council may preside over the meeting at which his or her removal is being considered.

Section Two: **Recall** – Eligible voters shall have the power to recall any member of the Council with or without cause. The recall process shall be initiated by filing a valid petition with the Council asking for such recall, signed by at least 30% of eligible voters and setting forth the reasons for the petition. Within 30 days after receipt of a valid recall petition, the Council shall call an election and appoint an election committee to conduct the recall election for the member(s) named in the petition. Once an individual has been subjected to recall proceedings, that person shall not again be subject to such action during the balance of their current term in office.

Section Three: **Forfeiture** – If any member of the Council shall be found guilty of a felony in any state or federal court, resigns, is absent for 3 consecutive meetings without being excused by the Council, fails to qualify as a Tribal member, or in the event of death, the member shall automatically forfeit their office and membership on the Council.

Section Four: **Vacancies** – Except for the Chair, any office which has been vacated – whether by removal, recall, or forfeiture – shall be filled at the next regular Council meeting by appointment of a qualified candidate by majority vote of all remaining Council members, and such replacement shall serve until the vacated term expires. If the position of Chair becomes vacant, a special election will be held to fill the position within 30 days and the Vice- Chair shall serve in place of the Chair.

Article IX: Powers

Section One: **General Powers** – Except as specifically limited by this Constitution, the powers of the Tribe shall be exercised by the Council and shall include all the inherent powers of a federally recognized Tribal government, including but not limited to those specified in this article which do not violate federal or Tribal law. The Council may authorize an officer to act in specific circumstances.

Section Two: **Internal Procedures** – Consistent with this Constitution, the Council may enact rules to govern its internal procedures and organization and to further define the duties of Tribal officers by ordinance, resolution, or ethical standards.

Section Three: **Other Council Powers** – In addition to all powers vested in the Tribe or the Council by existing law and this Constitution, the Tribe – acting through the Council – shall have the following powers:

(a) To negotiate with federal, state, or local governments and others on behalf of the Tribe and to advise and consult with the representatives of the Secretary of the Interior on all activities which may affect the Tribe.

(b) To promote and protect the health, education, and general welfare of the members of the Tribe; and to administer charity and such other services as may contribute to the social and economic development of the Tribe and its members.

(c) To raise revenue.

(d) To encourage, guard, and foster traditional cultural practices, including the arts, crafts, language, and customs of the Tlingit people of the Skagway Village.

(e) To preserve, protect, maintain, and recover archeological and cultural resources and sites.

(f) To authorize or direct subordinate boards, committees, or officials to administer the affairs of the Tribe and to carry out the directives of the Council.

(g) Except as limited by this Constitution, to manage, lease, exchange, acquire, sell, or otherwise deal with Tribal or other property; and to protect and preserve Tribal property and the wildlife and natural resources of importance to the Tribe.

(h) To regulate the real and personal property of Tribal members and other persons entering into consensual relationships with the Tribe or its members

(i) To prevent the sale, disposition, leave, or encumbrance of Tribal lands, interests in lands, or other Tribal assets without the consent of the Council. Except for routine administration of Tribal funds, consent must be by ordinance and otherwise consistent with the requirements of section 4 and 5 of this article.

(j) To administer any funds within the control of the Tribe

(k) To engage in economic development enterprises for the benefit of the Tribe or its members.

(l) To regulate child custody and adoption pursuant to the Indian Child Welfare Act or other applicable law, including the establishment of Tribal courts or other judicial bodies.

(m) To negotiate agreements with private parties, other governments, and international agencies not inconsistent with federal or Tribal law.

(n) To safeguard and promote the peace, safety, morals, and physical & general welfare of the members of the Tribe, including the establishment of Tribal courts of limited or general jurisdiction or other means of resolving disputes.

(o) To employ legal counsel.

(p) To charter enterprises, corporations, and associations and to join or charter housing authorities.

(q) To exercise any and all powers heretofore or hereafter delegated by the Tribal, state, or federal governments.

(r) To adopt ordinances, resolutions, procedures, and regulations necessary to give effect to any provision of this Constitution and to exercise any power not contrary to applicable federal or Tribal law.

Section Four: **Powers Reserved to Membership** – No permanent disposition of Tribal lands or interests in lands may be made – whether by sale, foreclosure, or otherwise – except by vote of the eligible voters acting through a properly called general membership meeting or election and as may be further provided by ordinance.

Section Five: **Waivers** – Nothing in this Constitution shall be deemed or construed to be a waiver of the sovereign immunity or jurisdiction of the Skagway Village – which may only be waived by express ordinance of the Council, and only to the extent specified in such ordinance and permitted by this Constitution and federal law. Waivers of sovereign immunity or jurisdiction shall not be general, but must be specific and limited as to duration, grantee, transaction, property, or funds – if any – of the Tribe subject to the waiver, and to the court having jurisdiction and applicable law. Waiver of the sovereign immunity of the Tribe shall not be deemed as general consent to the levy of any judgment, lien, or attachment upon property of the Tribe other than property specifically pledged, assigned, or otherwise explicitly subject to levy in the waiver ordinance.

Section Six: **Retained Powers** – The retained powers of the Tribe not expressed in this Constitution shall not be lost by omission, but may be exercised at any meeting or election by vote of the members eligible to vote or delegated by such election or meeting to the Council.

Article X: Popular Participation in Government

Section One: **Initiative** – The eligible voters of the Tribe shall have the right to propose legislation and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition signed by at least 30% of the eligible voters, the Council shall call an election to be conducted no later than 60 days after receipt of the petition. A majority vote of eligible voters voting in a properly called general membership meeting or election shall be required to determine the issues or questions submitted. An initiative may not be used to appropriate Tribal funds or distribute Tribal assets.

Section Two: **Referendum** – The Council by an affirmative vote of at least 5 of its members shall call an election – to be conducted at such time as the Council may decide – for the purpose of deciding by secret ballot issues or questions that are within the authority of the Council. A majority vote of eligible voters voting in a properly called general membership meeting or election shall be required to determine the issues or questions submitted. Tribal members may also initiate a referendum to approve, repeal, or amend the actions of the Council by petition as provided in the case of an initiative.

Section Three: **Decision of Tribal Members** – The decision of the voters in both initiative and referendum elections shall be binding on the Council and the Tribe, and shall remain in full force for a period of 2 years after which is may be amended or repealed by the Council.

ARTICLE XI: RIGHTS OF MEMBERS

Section One: **Civil Rights** – Consistent with Tribal customs, laws, and traditions, the Tribe exercising its powers of self-government shall not deny to any person within its jurisdiction freedom of speech, press or religion; or the right to assemble peacefully; nor shall the Tribe deny to any person the equal protection of Tribal laws; or deprive any person of liberty, membership, or property without due process of law.

Section Two: **Land Rights** – Tribal members shall have equal rights to use Tribally owned lands, given that respect for the land and its habitat is utilized according to Tribal law.

Section Three: **Freedom of Information** – Except as specifically limited by Tribal ordinance, Tribal members shall have the right to review all Tribal records, including membership lists and financial records, during office hours in accordance with procedures and limits established by ordinance a federal law, except for child welfare, litigation, personnel, and individual Tribal members income and other private information.

ARTICLE XII: SEVERABILITY

If any provision in this Constitution shall be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE XIII: SAVINGS CLAUSE

All previous ordinances and resolutions shall remain in effect to the extent that they are not inconsistent with this Constitution or future amendments.

ARTICLE XIV: AMENDMENTS

This Constitution may be amended by a majority vote of the members of the Tribe eligible to vote and voting in an election called for that purpose; provided that at least 40% of the eligible voters shall vote in such an election.

Such an election on a proposed Constitutional amendment shall occur upon a resolution approved by the affirmative vote of at least 4 Council members, or upon a petition signed by at least 30% of eligible voters as provided in the case of an initiative.

ARTICLE XV: ADOPTION

This Constitution, when adopted by a majority vote of the members of the Skagway Village eligible to vote and voting at an election called for that purpose in which at least 40% of the eligible voters – registered according to the regulations of the Secretary of the Interior or the Secretary's authorized representative – for approval and shall be effective from the date of such approval or as otherwise authorized by law.

CERTIFICATION OF ELECTION RESULTS

Pursuant to secretarial election by the Deputy Commissioner of Indian Affairs an authorized election, on March 29th, 2004 this Constitution was submitted to the eligible voters of the Tribe and on May 6th, 2004 was duly adopted bay a vote of 18 for and 0 against and 0 cast ballots found spoiled, mutilated, or otherwise ineligible in which at least 30% of the 34 Tribal members entitled to vote cast their ballot.

May 29, 2004
Date

Chairman, Election Board

Member, Election Board

Member, Election Board

Andrew Beasley
Tribal Chair,
Skagway Traditional Council

Tribal President,
Skagway Traditional Council